

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

ALYSSA ROSE, MYJORIE PHILIPPE,
VANESSA INOA, and MELISSA SISK, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

BEECH-NUT NUTRITION COMPANY,

Defendant.

Civil Action No. 1:21-CV-00789 (TJM/CFH)

STIPULATION AND [PROPOSED] ORDER TO CONSOLIDATE

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for the appearing parties, that:

WHEREAS, Plaintiffs Alyssa Rose and Myjorie Philippe originally filed their complaint against Beech-Nut Nutrition Company (“Beech-Nut”) and other baby food manufacturers (Hain Celestial Group, Inc., Gerber Products Company, and Plum, PBC) in the Eastern District of New York, Civil Action No. 2:21-CV-01118-JMA-AKT;

WHEREAS, on June 7, 2021, the Judicial Panel on Multidistrict Litigation (“JPML”) denied a motion for the centralization of related actions against various baby food manufacturers concerning the sale of foods with heavy metals;

WHEREAS, after the JPML’s decision, Plaintiffs Alyssa Rose and Myjorie Philippe stipulated with Beech-Nut to amend their complaint in the Eastern District of New York action

to drop Beech-Nut as a defendant in that case and refile their claims against Beech-Nut in the Northern District of New York;

WHEREAS, Plaintiffs filed the above-captioned action on July 10, 2021;

WHEREAS, this action was assigned to Judge Thomas J. McAvoy on July 14, 2021;

WHEREAS, a number of related cases against Beech-Nut are currently consolidated before Judge McAvoy with the lead Thomas case at “Master File No. 1:21-cv-00133-TJM-CFH” (the “Consolidated Action”);

WHEREAS, in the Consolidated Action, the Court contemplated that subsequently filed, transferred or removed cases will also be consolidated in the Consolidated Action with the Court’s approval, and the Court ordered on March 19, 2021 that, among other things, Beech-Nut need not file a response to the complaint in each Related Action and instead shall answer, move or otherwise respond to any Consolidated Complaint no later than sixty (60) days following service of the Consolidated Complaint, or by no later than May 15, 2021, whichever is later (Consolidated Action, ECF No. 55, ¶5); and

WHEREAS, Plaintiffs and Beech-Nut have conferred and agree that Beech-Nut need not answer the complaint in this case and this case should be consolidated with the Consolidated Action.

NOW, THEREFORE, IT IS HEREBY STIPULATED BY THE UNDERSIGNED THAT:

1. Beech-Nut agrees to waive service in the subject action;

2. Plaintiffs and Beech-Nut agree that this action is properly consolidated with the

Consolidated Action for pre-trial purposes pursuant to paragraph 4 of the Court’s March 19, 2021 Order in the Consolidated Action.

3. Beech-Nut's deadline to move, answer, or otherwise respond to the complaint in this Action is mooted and Beech-Nut's deadline to move, answer, or otherwise respond shall be at such time as may be applicable in the Consolidated Action to the operative complaint in that action.

DATED: July 16, 2021

Respectfully submitted,

E. STEWART JONES HACKER MURPHY LLP

/s/ James E. Hacker

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Attorneys for Defendant Beech-Nut Nutrition Company

IT IS SO ORDERED.

Date: July 19, 2021

Thomas McAvoy
UNITED STATES DISTRICT COURT JUDGE
HONORABLE THOMAS J. McAVOY